THE HON'BLE SRI JUSTICE B.PRAKASH RAO

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AND

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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W.P. NO. 26713, 27398 & 27403 OF 2003

Dated : August 23, 2006

Between:

Y.H.Quresh and others

Petitioners

AND

The Senior Division Accounts Officer,
South Central Railway,
Rail Nilayam, Secunderabad, and others

Respondents

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ORDER:

(Per The Hon'ble Sri Justice B.Prakash Rao)

Heard both sides.

Aggrieved by the order of the Central Administrative Tribunal, Hyderabad Bench, made in RA No. 11 of 2003 and Batch in OA No. 14 of 2002 and Batch, made by the A.P. Administrative Tribunal, Hyderabad on 29.7.2003, these three writ petitions are filed by the petitioners.

It is the common case of the petitioners that at the time of their retirement, all of them were getting 97% of their pay as DA, but they were paid 20% DA, treating the same as pay for the purpose of calculation of death gratuity-cum-retirement benefit, according to the existing Rules. Subsequently, the Government of India issued instructions in OM dated 14.7.1995 providing that the DA must be merged with pay and has to be treated as DA for the purpose of death gratuity-cum-retirement benefit, at 97% of the basic pay upto Rs.3,500/- for those who retired on or after 1.4.1995. Since all these petitioners are

drawing DA at 97% of their pay, which was granted with effect from 1.7.1993, their grievance is that they must also be paid the gratuity taking into account 97% of DA as is done in case of the other employees, who have retired from service on or after 1.4.1995. Therefore, these petitioners and others filed OA No. 14 of 2002 and batch, which were dismissed by the Tribunal by order dated 29.11.2002. Aggrieved thereby, the petitioners have preferred RA No. 11 of 2003 and Batch, which were allowed on 29.7.2003.

Aggrieved by the said order, the present writ petitions are filed by the respondents - Railways.

It is submitted across the Bar that these three writ petitions are left out, out of the Batch disposed of by a Division Bench of this Court in WP No. 25805 of 2003 and Batch dated 3.10.2005, following the judgment of the Apex Court in *State of Punjab and Others Vs. Amar Nath Goyal and others* ([1]) wherein the Apex Court has upheld the cut off date as 1.4.1995 and set aside the order passed by the Mumbai Tribunal in OA No. 542 of 1997 and Batch, and declined to grant the relief.

Following the judgment of the Division Bench of this court in W.P. No.25805 of 2003 and Batch Dated 3.10.2005, these three writ petitions are liable to be

allowed and are allowed in terms of the judgment in WP No. 25805 of 2003 and Batch. No order as to costs.

B.Prakash Rao, J.

Ramesh Ranganathan, J.

August 23, 2006
MAS.

[1] (2005) 6 SCC 754